LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 7841
BILL NUMBER: HB 2006

NOTE PREPARED: Feb 3, 2003
BILL AMENDED:

SUBJECT: Coal and aggregate severance tax.

FIRST AUTHOR: Rep. LaPlante
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
X **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill imposes the severance tax upon taxpayers that (1) remove coal from the earth; (2) process coal after its removal; or (3) extract aggregate from natural deposits. The bill imposes the tax at a rate of 4.5% of the coal or aggregate removed or processed within a monthly reporting period. It provides for a minimum tax of $0.50 per ton. This bill also provides that the minimum tax does not apply to taxpayers who only process coal. The bill also provides the method of determining gross value. It has penalties for the failure to pay or report the severance tax due. This bill provides that the Department of State Revenue administers the tax. The bill provides that the officers of a corporation that fails to pay the tax are personally liable, jointly and severally, for the amount of unpaid tax. It provides that the tax revenue collected shall be returned to the counties in which the coal or aggregate is removed or processed. This bill also provides that the counties may use the money to pay expenses incurred in the maintenance of county highways.

Effective Date: January 1, 2004.

Explanation of State Expenditures: (Revised) The Department of State Revenue (DOR) is to administer the tax. To receive the credit, a taxpayer must submit a severance tax return on a form prescribed by the DOR before the twentieth day of the month after the reporting period in which coal is severed or processed. The taxpayer must submit the amount of severance tax due with the severance tax return. The taxpayer must submit a return for each reporting period even though there may be no severance tax liability.

The DOR may authorize the taxpayer processing the coal to report and pay the tax that would be due from the taxpayer severing the coal. The DOR must also provide to all registered taxpayers that sell severed or processed coal that will be claimed as a reduction from gross value for purchased coal a certificate verifying the processor's reduction from gross value for purchased coal.

The DOR is to also prescribe the amount of the cash or corporate surety bond that taxpayers must post. The DOR may also bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the taxpayer's businesses until the bond is posted.

These provisions will increase administrative and record keeping expenses for the Department. The specific impact is indeterminable at this time.

The DOR must adopt rules to implement the above. The DOR will probably be able to promulgate given their current budget and staff.

This bill provides that a distribution from the account established under the proposal shall be made by warrants issued by the Auditor of State to the Treasurer of State ordering the appropriate payments. An estimate of the total payments is provided below.

Costs to the state for products that consist of or are composed of coal or aggregate could also increase if the cost increases to the provider are passed through to the state.

Explanation of State Revenues: (Revised) This bill imposes the severance tax upon taxpayers that remove coal from the earth; process coal after its removal; or extract aggregate from natural deposits. The tax is imposed at a rate of 4.5% of the gross value of all coal or aggregate removed or processed within a monthly reporting period. This bill provides for a minimum tax of $0.50 per ton. The minimum tax on coal (assumes a value of at least $20 per ton) will generate an estimated minimum of $18.5 M, applying the $0.50 rate per ton. Applying the minimum tax of $0.50 per ton on aggregate would generate an additional $40 M, given that approximately 80 million tons of sand, gravel, and stone are produced annually. The total increase in revenue would equal an estimated $58.5 M annually.

The proposal contains provisions for special circumstances. First, the severance tax for coal used for burning solid waste is limited to the lesser of $0.50 per ton or 4% of the selling price. The impact of this provision is indeterminable. Provisions are also made for taxpayers that sever coal in Indiana but process it outside of Indiana. Also, provisions are made for coal severed outside of Indiana but processed wholly or partially inside the state.

A special account within the State General Fund is established for taxes collected under the proposal. The DOR must transfer the taxes that are collected to the account. The Treasurer of State must distribute the money in the account to each county in which coal is severed or processed. The Treasurer must distribute to each county an amount proportional to the amount of the severance tax imposed in the county. Money in the account at the end of a state fiscal year does not revert to the State General Fund.

A taxpayer who fails to pay taxes due under this proposal, falsifies a return, or incurs a deficiency is subject to a penalty and interest in an amount determined by the DOR. Penalties and interest are deposited in the State General Fund.

A taxpayer who severs or processes coal or aggregate in Indiana without obtaining a certificate of registration or after a certificate of registration has been revoked, commits a Class B misdemeanor. If violations occur and fines are collected, revenue to both the Common School Fund and the State General Fund could increase. The maximum fine for a Class B misdemeanor is $1,000. Criminal fines are deposited in the Common School

Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the $120 court fee collected when a guilty verdict is entered would be deposited in the State General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the State General Fund.

Explanation of Local Expenditures: (Revised) Costs to local units for products that consist of or are composed of coal or aggregate could increase if the cost increases to the provider are passed through to the local unit.

The DOR may bring the action in the Marion county circuit court or in the circuit court of the county in which the taxpayers' business is located. This provision may increase costs to the counties.

A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately $44.

Explanation of Local Revenues: (Revised) The tax revenue collected must be returned to the counties in which the coal or aggregate is removed or processed. A county treasurer must deposit money received into the county general fund. Money received may be used to pay expenses incurred in the maintenance of county highways.

Estimated Tax Revenue on the Severance or Processing of Coal by County			
County	2001 Coal Production	Estimated Revenue from a Minimum Tax of $0.50	4.5% Tax on Gross Value Assuming Average Value of $20 per Ton*
Gibson	12,022,865	$6,011,432	$10,820,578
Knox	6,325,187	$3,162,593	$5,692,668
Pike	5,056,566	$2,528,283	$4,550,909
Vigo	4,066,006	$2,033,003	$3,659,405
Greene	3,622,949	$1,811,474	$3,260,654
Daviess	2,415,793	$1,207,896	$2,174,213
Warrick	1,384,127	$692,063	$1,245,714
Sullivan	1,255,865	$627,932	$1,130,278
Owen	383,377	$191,688	$345,039
Clay	208,468	$104,234	$187,621
Spencer	195,720	$97,860	$176,148
Parke	119,122	$59,561	$107,209
Dubois	3,322	$1,661	$2,989
Total Tonnage	37,059,367	$18,529,680	$33,353,430
Estimates are based on an average value of $20 per ton. Coal production information provided by the Indiana Coal Council, INC.			

Estimates of the tax assessed on aggregate by county are not currently available.
If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the $120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A $3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A $2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of State Revenue, Auditor of State, and Treasurer of State.

Local Agencies Affected: Counties, County Circuit Courts, Trial Courts, Local Law Enforcement Agencies.

Information Sources: Indiana Coal Council and Martin Marietta Aggregates.

Fiscal Analyst: Bernadette Bartlett, 317-232-9586